

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

UNITED STATES OF AMERICA, §
§
Plaintiff, §
§
v. § CRIMINAL NO. 6:10-118-S-1
§
LORENA MARTINEZ, §
§
Defendant. §

MEMORANDUM OPINION & ORDER

Pending before the Court is Defendant Lorena Martinez’ (“Martinez”) Motion for Modification and Reduction of Sentence pursuant to 18 U.S.C. § 3582 (Dkt. No. 328).

Martinez was sentenced to 42 months in the Bureau of Prisons in 2012 based upon her conviction for Conspiracy to Transport Unlawful Aliens and Conspiracy to Commit Money Laundering. (Dkt. No. 280.) Martinez now seeks a reduction in her sentence due to “continuing program[m]ing” and the fact that she has “tried to cope with [her] incarceration in a positive way.” (Dkt. No. 328 at 2.)

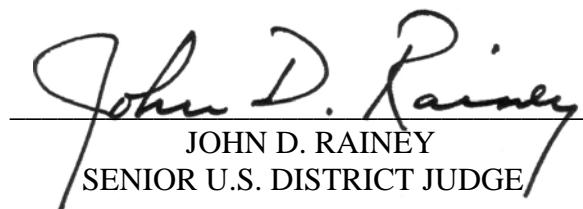
It is black-letter law that a federal court generally “may not modify a term of imprisonment once it has been imposed.” *Dillon v. United States*, — U.S. —, 130 S.Ct. 2683, 2687 (2010). A district court may resentence a defendant whose conviction has become final only pursuant to the circumstances set out in 18 U.S.C. § 3582. These circumstances are: (1) upon a motion for reduction by the Director of the Bureau of Prisons, after review of the relevant statutory factors, if there are “extraordinary and compelling factors” warranting such a reduction; (2) to the extent otherwise expressly permitted by statute or Rule 35 of the Federal Rules of Criminal Procedure; and (3) if the defendant was sentenced based on a sentencing range that has

subsequently been lowered by the Sentencing Commission and such a reduction would be consistent with the Commission's policy statements. 18 U.S.C. § 3582(c); *United States v. Ross*, 557 F.3d 237, 238 (5th Cir. 2009).

Because Martinez does not fit within the exceptions provided by § 3582, the Court has no authority to resentence her under this statute. Accordingly, Martinez' Motion for Modification and Reduction of Sentence (Dkt. No. 328) is **DENIED**.

It is so **ORDERED**.

SIGNED this 20th day of March, 2013.



John D. Rainey
JOHN D. RAINY
SENIOR U.S. DISTRICT JUDGE